

the stimulus package where we did a few things that helped our State. One of them, in particular, was raising the conforming loans by Fannie and Freddie. That was very helpful. We also have moved to work to get more counselors out there. But there is not enough counselors out there.

So there is no question it is time but for us to act. We have faced, I don't know what it is now, 60, 70 filibusters by my Republican friends, and they have every single right to do it, but they also know—I know they know this—they will take the blame for this if nothing gets done. So I say to my friends, I understand you don't like everything on our list. I totally get it. By the way, there are things that are missing from this list that I would like to add. But I am not going to vote no to go to solving this crisis because there is something on here that I feel is missing.

In conclusion—the words everybody waits for when a Senator speaks—it is our turn to step forward, and if we fail to do so, we are irrelevant to this country. If we cannot have the courage to cast a vote to go to solving the housing crisis, we are irrelevant to this country when every leading economist tells us that it is the housing crisis that is at the heart of this recession.

I thank the Chair for this chance to speak. We need this bill to help our families stay in their homes.

Mr. LEVIN. Mr. President, I am hopeful that we can proceed to a debate on this important Foreclosure Prevention Act without further delay. Homeowners across the country are suffering, and there are a number of things Congress could do to improve the worsening situation. We need to put aside partisan bickering and work together to keep families in their homes and keep this crisis from further weighing down our economy.

Since we last voted on whether to take up this measure in February, it has become even more obvious that the mortgage crisis is triggering a domino effect that threatens to weaken and undermine substantial portions of our financial system.

The situation is dire. In Michigan alone, nearly 80,000 homes are expected to be lost to foreclosure by 2009. My State has seen an increase in the number of foreclosure filings of 282 percent since 2005.

Michigan is not alone in this crisis, nor are homeowners facing foreclosure and declining housing values the only ones being affected. Over the past few weeks we have seen the near collapse of investment bank giant Bear Stearns and an unusually active Federal Reserve working overtime to ease widespread concerns over our financial markets. At the root of these concerns is the fact that there is a long chain of investors and lenders relying on American homebuyers to pay what, in many instances are, shaky home loans.

It is urgent that we move forward on this bill to provide immediate help.

Since we last tried to take up this bill, I have continued my series of roundtable meetings in Michigan communities. I have met with leaders from local and State government as well as organizations who are in the trenches working with families facing foreclosure to discuss practical ways to help homeowners and protect our economy from further damage. When I have asked for their feedback on this bill, they think it would help address a number of the problems they highlighted.

Across Michigan, everyone recognizes that declining home values affect not just those who are being forced into foreclosure or to sell at a loss but everyone who owns a home and the neighborhoods in which those homes are located. Many communities would like to rehabilitate abandoned and foreclosed properties so that surrounding property values do not continue to fall. But currently there are not funds to meet the growing demand. This bill provides \$4 billion in Federal block grants to areas with the highest foreclosure rates and filings to help rehabilitate abandoned or foreclosed properties and prevent further damage to local housing values and neighborhoods.

I am encouraged by the work of many counseling organizations, such as those I met with during my roundtable meetings in Michigan, that are trying to help families avert foreclosure. But across Michigan, foreclosure prevention counselors are overwhelmed, and a lack of funds is tying the hands of local groups trying to help keep families on track. This bill would provide \$200 million for this much needed pre-foreclosure counseling.

Because each new foreclosure affects the value of properties around it, in Michigan and across the Nation, there are also many homeowners who are facing the financial pressures of owing more on their mortgages than the current dollar value of their houses, a situation known as being "underwater." There is a critical need for more affordable loans to be made available to help these families refinance and stay in their current homes. Most homeowners do not want to uproot their children and leave their community behind, even if the balance of their mortgage is greater than the current market value of their home.

This bill would help address this problem by authorizing States to issue \$10 billion in new tax-exempt bonds to help homeowners refinance adjustable rate mortgages. Providing refinancing options for homeowners in potentially solvent situations is an important component in the effort to reverse the current tide of foreclosures.

Ending the foreclosure crisis will require a team effort among Federal, State, and local governments, community and neighborhood organizations and lenders, brokers, and borrowers. This bill recognizes that fact. It provides an opportunity to help keep

struggling families in their homes. It provides an opportunity to help restore our housing markets by keeping declining property values stable. It will protect neighborhoods from a glut of vacant homes. We need to take up this bill now, debate it, consider amendments, and then pass it. To not do so would be to sit idly by while too many needlessly suffer.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I understand I have 30 minutes, and I now ask unanimous consent that it be formalized.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### JUDICIAL CONFIRMATIONS

Mr. SPECTER. Mr. President, I have sought recognition today to speak about three subjects: One, judicial confirmations; secondly, the budget resolution; and thirdly, the housing situation.

First, as to the confirmation of judges, through staff, I have notified the distinguished chairman of the Judiciary Committee that I intended to address this subject, and the theme of my comments is that we ought to be moving ahead on judicial confirmations.

We have a situation where there has not been one confirmation of a Federal judge this year. Since September 25th of last year, there has only been one hearing for a circuit judge, and that was on February 21, in the midst of a recess. There have only been two hearings that included district court judges, the one on February 12 and one other. Six nominees have been heard; four are on the agenda for this week's executive business meeting.

The comparison between what has happened with President Bush and President Clinton shows a decisive imbalance which requires prompt action by the Senate on the confirmation of President Bush's judges. During the last 2 years of President Clinton's administration, 15 circuit judges were confirmed compared to six for the last 2 years, so far, of the Bush Administration. During the last 2 years of President Clinton's administration, 57 district judges were confirmed compared to only 34 during the Bush Administration.

On the 8-year cycle for President Clinton, 65 circuit judges were confirmed and 305 district judges. And so far, during President Bush's two terms, 57 circuit judges have been confirmed and 237 district judges have been confirmed.

Now, the statistics can be argued in many ways, but I think it is hard to overcome the basic conclusion that it is unacceptable to have no confirmations of a Federal judge in the entire year, so far, in 2008. Three months have expired. It is unsatisfactory to have only one hearing for a circuit judge in the past 6 months, and last year only four circuit judges were given hearings.

Now, regrettably, this pattern has evolved over the past two decades. During the last 2 years of President Reagan's administration, the Senate was controlled by the opposite party and there was a stall. Then, during the last 2 years of President George H.W. Bush, the first President Bush, again during the last 2 years of his administration, judges were stalled. Republicans retaliated with gusto during the last 6 years of President Clinton's administration and exacerbated the warfare on judges following what the Democrats had done.

And, as we have seen in 2005, this Chamber was virtually cast asunder by the battle on the Democratic filibusters and the threat of a nuclear option or constitutional option to change the filibuster rules. It was open warfare in this Chamber, until it was finally worked out through the so-called Gang of 14. Now we have a desperate situation where judicial emergencies exist in many of these courts, and the Senate is not acting to confirm judges to fill those seats.

The Washington Post has editorialized on the subject to this effect. In December of 2007, the Post said:

[T]he Senate should act in good faith to fill vacancies—not as a favor to the president but out of respect for the residents, businesses, defendants and victims of crime in the region the 4th Circuit covers. Two nominees—Mr. Conrad and Steve A. Matthews—should receive confirmation hearings as soon as possible.

The Post further editorialized about another Fourth Circuit nominee:

[B]locking Mr. Rosenstein's confirmation hearing . . . would elevate ideology and ego above substance and merit, and it would unfairly penalize a man who people on both sides of this question agree is well qualified for a judgeship.

What we are dealing with is not just politics in the Senate. We are dealing with the rights of residents—as noted by the Washington Post, of businesses, of defendants and victims of crime—who are affected by the failure to move ahead and confirm judges. That, I suggest, is totally unacceptable.

I emphasize the blame rests on both parties, as this pattern has unfolded over the past two decades. Each time it has been exacerbated, it has intensified. I supported qualified judges during the administration of President Clinton because I thought it was inappropriate to tie them up. I thought the Democratic President was correct in seeking confirmation of his judges. Now I believe the Republican caucus is correct in saying it is inappropriate to block the confirmation of Federal judges, especially when no judge has been confirmed yet this year to the Federal courts and only one circuit court nomination hearing has been held in the past 6 months.

It is my hope that we will find a way to declare a truce. We have an election coming up in November. It may well be that there will be a change of parties—or not. It may well be that, unless a truce is declared, the opposite party

will have sufficient votes through filibusters or otherwise to stop judicial nominations. It hurts the country. It hurts the people who are trying to get their cases decided. It hurts litigants.

The judicial process is fundamental in our society, and it is being thwarted by the tactics which have become business as usual in the Senate. I hope we will be able to resolve this matter. I hope we will be able to declare a truce. There is consideration being given to a variety of responses to this kind of conduct by the majority, and we all know any one Senator can tie up this body unilaterally because this place functions on unanimous consent and waivers of a lot of technical rules. That would be, perhaps, even more disastrous. But, we have to find a way out of this, I suggest, because it is totally unacceptable to continue as it is running today.

Mr. President, I now ask that the CONGRESSIONAL RECORD contain a separate caption for what I am about to say, under a resolution which I am about to submit to change the budget process.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 493 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

#### HOUSING CRISIS

Mr. SPECTER. We are scheduled to have a vote at 2:15 this afternoon on a motion to invoke cloture on the motion to proceed to legislation that has been filed at the desk by the majority leader. This legislation contains a number of proposals, the most important of which is under consideration by the Judiciary Committee at the present time. I have filed alternative legislation, captioned S. 2133, which offered relief to homeowners who have so-called variable rate mortgages and who are facing bankruptcy.

Home buyers who have variable rate mortgages are sometimes surprised to find their payments, after a period of time, jump from—illustratively—\$1,200 a month to \$1,900 a month, an enormous change that they had not expected because they have a variable rate mortgage.

I believe that in these situations, there is a good basis to give bankruptcy courts authority to inquire into the circumstances of such mortgages and to roll back or reduce the interest rates. The rate of foreclosure for these types of mortgages has more than doubled in the past year while foreclosure among homeowners with fixed-rate mortgages has increased only modestly. Frequently, the person taking out a mortgage doesn't understand there is a risk that there will be a large increase in the interest rates on variable rate mortgages. Sometimes there is deception on the part of the lender or mortgage broker. Sometimes it may

even constitute fraud. I believe the best policy would be to allow the bankruptcy courts to consider these matters on an individual basis. The lender is still going to receive, ultimately, the full amount of the principle but not with interest rates that put the home buyer in a precarious position, or even foreclosure.

Senator DURBIN has introduced legislation captioned S. 2136 that goes much further by authorizing the bankruptcy court to reduce the principal amount of the mortgage. I am opposed to that approach because it will increase the risk associated with mortgage lending and discourage lenders from providing capital for home mortgages. The Bankruptcy Code currently does not allow for the modification of mortgages because Congress did not want to discourage lenders from giving mortgages to future homebuyers. There is an excellent statement by Justice Stevens in *Nobelman v. American Savings Bank* in which he gives that precise reason for the provision barring modification of mortgages. Congress must be cautious about making changes to the Bankruptcy Code that will leave consumers worse off in the long run. I believe Senator DURBIN's proposal would have that effect.

I believe we ought to be acting on the issues confronting us on housing, but I am concerned that given the current state of affairs, the procedures to be followed will preclude amendments, such as my interest in offering an amendment with the substance of my bill, S. 2133. The better practice would be to work through the Judiciary Committee, which is now considering the Durbin legislation, with my legislation offered in Committee as a second-degree amendment. We are scheduled to have a markup on that on Thursday. Regular order would suggest that is a better practice to have it come out of the Committee, where we are in the process of having a markup. We will later have a committee report, and it would be much more conducive to appropriate deliberation than having a measure filed under Rule XIV, where it is lodged at the desk, where there has not been analysis and a markup, and there has not been a committee report.

If it is possible to offer amendments, I would consider supporting the cloture motion. However, if the majority leader is going to fill the tree and not allow amendments, then I am opposed to that procedure and would oppose cloture. The practice of so-called filling the tree is highly undesirable. The essence of Senate procedures is to allow Senators to offer amendments.

In February of last year, more than a year ago, I introduced a resolution, S. Res. 83, to change the standing rules so the same person could not offer both a first-degree and a second-degree amendment. This change of the rules would preclude the majority leader, who has priority of recognition, from so-called filling the tree to prevent anyone else from offering amendments.